

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GEORGE GANDAR,
Plaintiff

VS.

WERNER ENTERPRISES, INC.
Defendants

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CIVIL ACTION NO. 4:21-cv-00310
JURY REQUESTED

**DEFENDANT WERNER ENTERPRISES, INC.S’
NOTICE OF REMOVAL OF CIVIL ACTION**

COMES NOW Defendant WERNER ENTERPRISES, INC., and files this Notice of Removal, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

1. The Plaintiff, George Gandar (“Plaintiff”), filed the Plaintiff’s Original Petition on December 31, 2020 in the Harris County District Court which is within the Houston Division of the United States District Court for the Southern District of Texas. The case carries the style of: Cause No.: 2020-84036; *George Gandar v. Werner Enterprises, Inc.*; In the 129th Judicial District Court of Harris County, Texas. Under 28 U.S.C. § 1446(a), removal to this Division of this District is proper.

2. In the Original Petition Plaintiff alleges that on or about February 19, 2019, Plaintiff and Werner Enterprises, Inc. were involved in a motor vehicle accident in Harris County, Texas. Plaintiff claims to have sustained personal injuries and damages and is seeking to recover (a) past and future medical expenses, (b) past and future physical pain, (c) mental anguish in the past and future, (d) past and future physical impairment, (e) physical disfigurement in the past and future, (f) lost wages and loss of earning capacity in the past and future, and (g) all other damages allowed by law and equity. The Plaintiff’s Original Petition alleges a monetary relief over \$1,000,000.00

(Exhibit A, ¶ VII).

3. A copy of Plaintiff's Original Petition is attached hereto as Exhibit "A." Werner Enterprises, Inc. was served through its agent for service of process on or about January 6, 2021, Exhibit "B."

4. On or about January 28, 2021, Werner Enterprises, Inc. filed an Original Answer, a copy of which is attached hereto as Exhibit "C" and served a copy of said Answer upon counsel for the Plaintiff in this Action by both E-Service and e-mail transmission.

5. Plaintiff is an individual and a resident and citizen of the State of Texas.

6. Werner Enterprises, Inc. is a corporation incorporated in the State of Nebraska with its principal place of business in Omaha, Nebraska, 28 U.S.C. § 1332(c)(1). (See Declaration under Oath as Exhibit "D.")

7. This Notice of Removal is timely as it was filed within the 30 day time period required under 28 U.S.C. § 1446(b).

8. The Action is one which may be removed to this Court by the Defendant pursuant to 28 U.S.C. §§ 1441 and 1446, and over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, in that diversity of citizenship exists between the Plaintiff and the Defendant hereto, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

9. Removal is not barred by 28 U.S.C. § 1445.

10. Pursuant to 28 U.S.C. § 1446(a) and local Rule 81, Werner Enterprises, Inc. has attached hereto: an Index of Documents being filed as **Exhibit E**; a copy of the state court docket sheet as **Exhibit F**; and a list of all counsel of record as **Exhibit G**.

11. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1446(a).

12. Venue is proper in the Southern District under 28 U.S.C. §1441(a) because the state court where the action has been pending is located within this District.

13. Defendant will promptly file a copy of this Notice of Removal with the Clerk of the state court where the action has been pending.

14. Defendant demanded a jury in the state court action.

15. On or about the date of this filing, Defendant served upon counsel for the Plaintiff a copy of the “Defendant’s Notice of Removal of Civil Action.”

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

16. If Plaintiff contests this removal, Defendant requests:

- (a) a hearing regarding this Court’s jurisdiction over, and the propriety of removal of this matter; and
- (b) leave to conduct limited discovery related to issues surrounding the existence of diversity jurisdiction.

WHEREFORE, the Defendant WERNER ENTERPRISES, INC., by counsel, requests that this Court remove the action from the Harris County District Court to The United States District Court for the Southern District of Texas Houston Division.

Respectfully submitted,

BAIR★HILTY, P.C.

/s/Amanda S. Hilty

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**ATTORNEY FOR DEFENDANT,
WERNER ENTERPRISES, INC.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per S. Dist. Tex. Loc. R. LR5.1 on the 30th day of January, 2021. A true and correct copy of the foregoing Defendant's Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by e-service, e-mail, certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this the 30th day of January, 2021.

/s/ Amanda S. Hilty

AMANDA S. HILTY